IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

C.R.P.No. 584 of 2007()

AGAINST THE ORDER DATED 10/04/2007 IN EP.NO.2031/2003 IN OS.1989/2000 of PRL.MUNSIFF COURT,THRISSUR

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REVN. PETITIONER: DECREE HOLDER

GOLDWIN CHITTIES AND HIRE PURCHASE (P) LTD.,REPRESENTED BY ITS DIRECTOR, MATHEW JOHN,S/O.EDAKALATHUR LONAPPAN, PURANATTUKKARA VILLAGE, DESOM,THRISSUR.

BY ADV. SRI.K.N.PADMAKUMAR

RESPONDENTS: JUDGMENT DEBTORS

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1. JACOB,S/O.ANTHONY,MALIAKKEL CHERUSSERY, VEEDU, ADATTU VILLAGE, THRISSUR TALUK.

2. ANI,W/O.JOSEPH,MEKKATTUKULAM VEEDU, KURIACHIRA DESOM,KOORKANCHERY VILLAGE, THRISSUR.

BY ADV. SRI.D.ANIL KUMAR
SRI.BEPIN VIJAYAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN , J

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C.R.P NO. 584 OF 2007

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Dated this the 16th day of August, 2007.

ORDER

This revision petition is preferred against the order of the Principal Munsiff Court, Thrissur in dismissing the execution petition. The decree holder is the revision petitioner before this Court. It is contended by the 1st respondent that he is a retiring teacher and that he has no means to pay the decree amount and he is not having any landed property and therefore he should not be arrested and detained in civil prison in execution of the decree. The court below arrived at the decision under Section 11 of the Pensioners Act and Section 60(O) C.P.C that the amount is not attachable. I am afraid that the learned Munsiff has not approached the matter in the correct perceptive. For execution under order 21 CPC Section 60 CPC may have certain bearing and if there is exempted clause under Section 60 that will have a bearing in conducting the enquiry regarding the means under Section 51 of the Civil Procedure Code. I do not find any provision whereby the CPC excludes attachment of pension of a school teacher whereas the clause which deals with exemption is under Section 60 (1)(g) which deals with 3 categories namely stipends and gratuities allowed to the pensioners by the Government or amounts payable out of any

service family pension fund and political pensions. I am afraid whether the pension of a retired teacher would come under the ambit of Section 60(g). I feel that the provisions 60(O) referred in the order of the learned Munsiff may not apply to the present case. So a second look is necessary and since facts are also involved it may not be correct for this Court at this juncture to decide the issue without the entire facts before the court. Therefore, I feel the order under challenge has to be set aside and the matter is to be remitted back to the learned Munsiff for fresh consideration in the light of the observations made by me and with respect to the relevant provisions which the judgment debtor relies and after hearing all concerned, the matter will be disposed of by the court. Since no relief is sought against the second judgment debtor no order need be passed with respect to her and she cannot be arrested and detained in civil prison in view of the specific provision in the C.P.C. Therefore, the decree holder and the 1st respondent are directed to appear before the court below on **13.09.2007.**

M. N. KRISHNAN, JUDGE.

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